

**BEFORE THE  
FEDERAL ELECTION COMMISSION**

**Minnesota Democratic-Farmer-Labor Party  
255 E. Plato Blvd.  
St. Paul, MN 55107,**

**Complainant,**

**v.**

**Norm Coleman,**

**St. Paul, MN 55114,**

**National Federation of Independent Business SAFE Trust  
1201 F Street N.W.  
Suite 200  
Washington, DC 20004,**

**U.S. Chamber of Commerce  
1615 H Street NW  
Washington, DC 20062,**

**Respondents.**

**MUR # 6077**

**RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
2008 SEP 24 A 10:26**

**COMPLAINT**

Complainant files this complaint under 2 U.S.C. § 437g(a)(1) against Norm Coleman, the National Federation of Independent Business SAFE Trust, and the U.S. Chamber of Commerce ("Respondents"), requesting that the Federal Election Commission investigate violations of the Federal Election Campaign Act, as described below.

**A. FACTUAL ALLEGATIONS**

Norm Coleman and Al Franken are candidates for the United States Senate from the state of Minnesota. The National Federation of Independent Business SAFE Trust ("NFIB") is a multi-candidate political committee registered with the FEC. The U.S. Chamber of Commerce ("Chamber") is a non-profit corporation and a 501(c)(6) tax-exempt organization.

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Jeff Larson ("Larson") is a partner of FLS-Connect, a political consulting firm that offers voter contact, fundraising, and other services to its clients. FLS-Connect's clients include Coleman, NFIB, and the Chamber. See <http://www.flconnect.com/>. Coleman's campaign committee and his Northstar Leadership PAC have paid FLS-Connect more than \$1.6 million for consulting services since 2001. See [www.fec.gov](http://www.fec.gov). According to records filed with the Commission, Larson has served as Treasurer of Northstar Leadership PAC since the committee was formed in April 2003, and, according to the *St. Paul Pioneer Press*, Larson is part of Coleman's "Inner Circle of advisors." *Pioneer Press*, 8/5/07. Larson also provides the Northstar Leadership PAC with office space and, until recently, rented office space to the Coleman campaign committee. *National Journal*, 6/28/08. Coleman has employed Larson's wife on his Senate payroll. *Id.*

In June 2008, the *National Journal* reported that Coleman rents an apartment owned by Larson for \$600 a month, and that one of Larson's FLS-Connect employees uses space in the apartment to work and take calls on some days. *National Journal*, 6/28/08. One of Larson's FLS-Connect business partners rents the other two floors of the town house. Larson allegedly charged Senator Coleman an under-market rent; did not charge Coleman for utilities for a year; accepted used furniture to cover one month's rent; and, at times, has failed to cash Coleman's rent checks. *Id.*; *Star Tribune*, 8/13/2008. Complainant has asked Senator Coleman to reveal how much business FLS-Connect has conducted in his apartment, but Coleman has refused to respond. DFL Press Release, 6/30/08.

On or about August 8, 2008, the Chamber released an advertisement attacking Franken's position on the Employee Free Choice Act. The advertisement can be viewed at <http://www.youtube.com/watch?v=ErFYLN6uSk>. On or about August 28, 2008, the Chamber

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released a second advertisement attacking Franken's positions on taxes. The Chamber purchased \$42,500 in air time to air the second ad. The advertisement can be viewed at <http://www.youtube.com/watch?v=9x9lvE-alyI>. On or about September 4, 2008, the Chamber released a third advertisement praising Coleman's positions on health care. The advertisement can be viewed at <http://www.youtube.com/watch?v=B6KS5vkOacg>.

On or about September 5, 2008, NFIB ran full-page print ads in the *St. Paul Pioneer Press* and the *Minneapolis Star Tribune* endorsing Coleman and attacking Franken for wanting to increase taxes. See Attachment A. Complainant alleges that the cost of these print advertisements exceeded \$5,000.

**B. LEGAL ARGUMENT:**

**1. The Chamber and NFIB May Have Paid for Coordinated Communications.**

Under the Commission's regulations, communications that are coordinated with a candidate are considered to be in-kind contributions to that candidate. 11 C.F.R. § 109.21(a). Public communications are considered to be coordinated if they (1) are "paid for in whole or in part, by a person other than that candidate [or] authorized committee"; (2) satisfy one of the regulation's content standards; and (3) satisfy one of the regulation's conduct standards. 11 C.F.R. § 109.21(a), (b). The content standard is met if, *inter alia*, (a) the public communication references a clearly identified Senate candidate and is publicly distributed in that candidate's jurisdiction 90 days or fewer before the candidate's general or primary election, or (b) if it "expressly advocates the election or defeat of a clearly identified candidate for Federal office." 11 C.F.R. § 109.21(c). "Public communications" include communications that are distributed by broadcast or cable television or by newspaper. 11 C.F.R. § 100.26. The conduct standard is met if, *inter alia*:

- (1) The communication is created, produced, or distributed at the request, suggestion, or assent of a candidate, authorized committee, political party committee or agent;
- (2) The candidate or authorized committee was materially involved in decisions regarding the content, intended audience, means or mode of communication, specific media outlet to be used, timing, frequency, size, prominence or duration of the communication;
- (3) There is substantial discussion about the communication between the person paying for the communication and the candidate, authorized committee, political party or agent of the campaign. A discussion is substantial if information about the candidate's plans, projects, activities or needs are conveyed and that information is material to the creation, production or distribution of the communication;
- (4) The person paying for the communication and the campaign shares certain types of common vendors, and that vendor uses or conveys information about the candidate's plans, projects activities or needs, or uses information in its possession that was obtained through their relationship with the candidate and that information is material to the creation, production or dissemination of the communication;
- (5) The person paying for the communication employs a former employee that conveys information about the candidate's plans, projects, activities or needs, or uses information in its possession that was obtained through their employment with the candidate and that information is material to the creation, production or dissemination of the communication.

11 C.F.R. §§ 109.21(d)(1)-(5).

Here, the Chamber's television ads and NFIB's newspaper articles clearly meet the first prong: the television ads indicate that they were paid for by the Chamber and the newspaper ads indicate that they were paid for by NFIB. They also meet the second prong. The television ads clearly reference Franken and Coleman, candidates for United States Senate, and were distributed in Minnesota less than 90 days before the November 4, 2008 election (and less than 90 days before the September 9, 2008 primary). Likewise, the newspaper advertisements clearly reference Franken and Coleman and were distributed in Minnesota less than 90 days before the November 4, 2008 election. The newspaper advertisement also expressly advocates for the election of Senator Coleman.

The television and newspaper advertisements may also meet the third prong. Newspaper articles describe a close-knit web of relations between Senator Coleman, the Chamber, NFIB,

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Jeff Larson, and FLS-Connect that, taken together, support the inference that the advertisements were produced at the request of Senator Coleman or his agent, with Senator Coleman's material involvement, or after substantial discussion with Senator Coleman or his agent. 11 C.F.R. §§ 109.21(d)(1)-(3). Larson is a partner of FLS-Connect. He serves as the Treasurer of Senator Coleman's leadership PAC and is part of Coleman's "Inner Circle of advisors." He rented his apartment in Washington, DC to Senator Coleman at an under-market rate; accepted used furniture to cover one month's rent; and sometimes failed to cash Coleman's rent checks. While Senator Coleman lived at Larson's apartment, an employee of Larson's political consulting firm used the apartment to conduct firm business and one of the firm's partners rented two floors of the apartment. Coleman, Coleman's leadership PAC, the Chamber, and NFIB are all clients of Larson's firm. These facts are strong indicators of coordination between Coleman, the Chamber, and NFIB through Larson, who, as Treasurer of Coleman's leadership PAC, may have been acting as Coleman's agent.

The Facts also suggest coordination under 11 C.F.R. § 100.26(d)(4). Coleman, the Chamber and NFIB shared a common vendor, FLS-Connect, which provided all three with political consulting services. The Commission should investigate whether Larson or another FLS-Connect employee used information from the Coleman campaign or information that had previously been used in providing services to the Coleman campaign to produce the NFIB and Chamber advertisements.

In summary, if the Chamber's television ads and NFIB's newspaper ads were coordinated communications, they must be treated as in-kind contributions to Coleman. Complainant respectfully requests the Commission to investigate this charge.

**2. NFIB May Have Made In-Kind Contributions in Excess of the Legal Limit.**

FECA makes it unlawful for multi-candidate political action committees to make contributions to any candidate and his authorized political committees in excess of \$5,000. 2 U.S.C. § 441a(a)(2). Under the Commission's regulations, communications that are coordinated with a candidate are considered to be in-kind contributions to that candidate. 11 C.F.R. § 109.21(a).

As described above, NFIB may have spent over \$5,000 on communications that were coordinated with Coleman. Accordingly, NFIB may have violated FECA's contribution limits.

**3. The Chamber May Have Made, and Coleman May Have Accepted, Illegal In-Kind Corporate Contributions.**

FECA makes it unlawful for corporations to make contributions or expenditures in connection with any Federal election. 2 U.S.C. § 441b(a). Further, it is unlawful "for any candidate, political committee, or other person knowingly to accept or receive" an unlawful corporate contribution. *Id.* Under the Commission's regulations, communications that are coordinated with a candidate are considered to be in-kind contributions to that candidate. 11 C.F.R. § 109.21(a).

As described above, the Chamber may have paid for multiple television communications that were coordinated with Coleman. Because the Chamber is a corporation, the Chamber may have violated the Act's prohibition against making corporate expenditures, and Senator Coleman may have violated the Act's prohibition against accepting the corporate contributions.

**4. Respondents NFIB and the Chamber May Have Failed to Properly Report Their Expenditures.**

Political committees must report all expenditures to the Commission. 2 U.S.C. § 434. Commission regulations require that coordinated communications be reported to the Commission

as expenditures. 11 C.F.R. § 109.21(b)(3). To date, neither NFIB nor the Chamber has disclosed its expenditures to the Commission. If the Commission finds that these expenditures were coordinated communications, NFIB and the Chamber may have also violated the reporting requirement of 11 C.F.R. § 109.21(b)(3).

**5. Respondent Coleman May Have Failed to Properly Report NFIB and the Chamber's Contributions.**

Candidates and their authorized committees must report coordinated communications made on their behalf to the FEC as in-kind contributions. 11 C.F.R. § 109.21(b)(3). To date, Senator Coleman has not disclosed NFIB's or the Chamber's expenditures as in-kind contributions. If the Commission finds that these expenditures were coordinated communications, Senator Coleman may have also violated the reporting requirement of 11 C.F.R. § 109.21(b)(3).

**C. REQUESTED ACTION**

For the reasons described above, I respectfully urge the Commission to investigate the violations described herein. I further request that Respondents be enjoined from further violations and be fined the maximum amount permitted by law.

Sincerely,

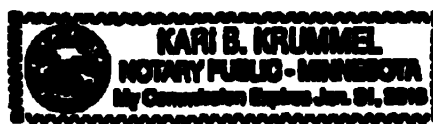
Brian M. Melnick  
BRIAN M. MELNICK

SUBSCRIBED AND SWORN to before me this 18<sup>th</sup> day of September, 2008.

Kari B. Krummel  
Notary Public

My Commission Expires:

1-31-2013



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# Take a quick QUIZ

and see  
if you're  
one of  
the  
Minnesotans



who would  
have their  
taxes  
**RAISED** by  
Al Franken.

☐ **ARE YOU ALIVE AND BREATHING?**

According to Al Franken, we should roll back taxes to the way they were in the 1990s. That would mean a tax increase for over 2,000,000 Minnesotans.

☐ **ARE YOU MARRIED OR THINK THERE IS THE POSSIBILITY YOU WILL GET MARRIED SOMEDAY?**

Bringing back taxes to the way they were in the 1990s means bringing back the mortgage-pendly tax, which would increase taxes for over 500,000 married couples in Minnesota.

☐ **DO YOU HAVE CHILDREN?**

The recent increase in the child tax credit benefited nearly half-a-million Minnesotans. Bringing taxes back to the 1990s reduces the benefit, raising taxes on hard-working families.

☐ **ARE YOU A BUSINESS OWNER OR DO YOU WORK AT A BUSINESS?**

Rolling back taxes to the 1990s would be a disaster for our job-creating businesses. Not only would it raise taxes for over half a million businesses in Minnesota, it could also lead to a loss of employment for many Minnesota families.

☐ **IS IT POSSIBLE YOU WILL DIE ONE DAY?**

Dying is usually bad enough. Getting taxed for doing it is even worse. But if we take taxes back to the 1990s, as Al Franken is hoping, that's exactly what would happen for half-a-million remaining family members in Minnesota.

HOW YOU KNOW HOW EXPENSIVE LIFE  
(AND DEATH) WOULD BE WITH  
**AL FRANKEN** IN THE U.S. SENATE.

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